HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition no. 1442 (M/S) 2005

Jagdish Chandra S/o Sri Maya Ram,
Resident of Village Dhorada, Patwari Kshetra Patali,
Tehsil Garur District Bageshwar. ---------Petitioner.

Versus

1. State of Uttaranchal through
   District Magistrate, Bageshwar,
2. District Judge, Begeshwar,
3. Prescribed Authority/S.D.M. Bageshwar,
4. Prescribed Authority/S.D.M., Garur. --------Respondents.

Mr. M.C. Kandpal, learned Sr. Counsel for the petitioner.
Learned Standing Counsel for respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri M.C. Kandpal, learned Senior Counsel for the petitioner and learned Standing Counsel for the respondents.

The present writ petition has been filed by the petitioners for the following relies:

i. Issue a writ order or direction in the nature of certiorari to quash the judgment and order dated 16.04.2006 passed by the District Judge, Bageshwar in Eviction Appeal no. 12 of 2002 and order dated 09.08.2002 passed by the Prescribed Authority/S.D.M. Bageshwar in Eviction Suit no.8 of 2001-02 and eviction notice issued by the Prescribed Authority/S.D.M. Garur u/s 5(2) of the U.P. Public Premises Act 1972, which is annexed as annexure no. 8, 7 & 11to the writ petition,

ii. Issue a writ, order or direction in the nature of mandamus commanding and directing to the respondent authorities not to evicted the petitioner from the Abadi Land of Khatuni Khata no.16 plot no. 1044 area 6 Mutthi situated in village Dhorda Patwari Kshetra Patali Tehsil Garur, District Bageshwar.

iii. Issue a writ, order or direction which this Hon'ble Court may think deem fit and proper in the circumstances of the case,

iv. Award the cost.

Proceedings u/s U.P. Public Premises (Eviction of Unauthorized Occupants) Act 1972 were initiated against the petitioner in respect of a land which is agricultural land. The Prescribed Authority /S.D.M. Bageshwar, passed order against the petitioner. Aggrieved with the order passed by the Prescribed Authority, the petitioner preferred appeal before the District Judge, Bageshwar that was also dismissed.

The question whether the proceedings under section U.P. Public Premises (Eviction of Unauthorizd Occupants) Act 1972 can be initiated in respect of the land which is an agricultural land has already been decided by this Court in the case of Civil Misc. Writ Petition no.176 (M/S) 2001 Ranjeet Singh Vs. State of U.P. and others alongwith connected writ petition no. 177(M/S) 2001 and writ petition no. 178 of 2001, delivered on 26.04.2006, reported in 2002(1), E.L.C. 508 (High Court). Counsel for the parties have submitted that the controversy raised by the present writ petition is squarely covered by the aforesaid judgment dated 26.04.2006, therefore the present writ petition may also be decided on the same terms and conditions of the aforesaid judgment.

Accordingly, the present writ petition is disposed of on the same terms and observations made in Civil Misc. Writ Petition no. 176(M/S) 2001 Ranjeet Singh vs. State of U.P. and others alongwith writ petition no. 177(M/S0 2001 and writ petition no. 178 of 2001, delivered on 26.04.2006, reported in 2002(1), E.L.C., 508 (High Court).

The impugned order dated 16.04.2003 passed by the District Judge, Bageshwar in Eviction Appeal no. 12 of 2002 and order dated 09.08.2002 passed by the Prescribed Authority/S.D.M. Bageshwar in Eviction Suit no.8 of 2001-02, are hereby quashed. No order as to costs.

(M.M. Ghildiyal, J.)

August 8, 2006:
NCM: